

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIE G. JAMES BOOKER,

Plaintiff,

v.

A. LOWE et al.,

Defendants.

CASE NO. 3:24-cv-05650-LK

ORDER ADOPTING IN PART
REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge David W. Christel, recommending dismissal of *pro se* Plaintiff Willie G. James Booker’s complaint for failing to pay the usual filing fee or apply to proceed *in forma pauperis* (“IFP”), and otherwise failing to prosecute. Dkt. No. 5; *see* Dkt. No. 1 (complaint). The Court agrees and adopts the R&R in part.

When Mr. Booker filed his complaint on August 7, 2024, he was an inmate at Lewis County Jail. Dkt. No. 1 at 2. He did not pay the filing fee or apply to proceed IFP when he filed his complaint. Dkt. No. 2 at 1. On the same day, the Clerk notified Mr. Booker of these deficiencies and informed him that failure to pay the filing fee or submit a completed IFP application by

1 September 6, 2024, could result in dismissal of his action. *Id.* Mr. Booker failed to cure these
2 deficiencies by that date, and on September 19, 2024, Judge Christel issued an order to show cause
3 warning Mr. Booker that if he did not either file a complete IFP application or pay the \$405 filing
4 fee by October 16, 2024. Judge Christel would recommend that this action be dismissed for failure
5 to properly prosecute and for failure to comply with a court order. Dkt. No. 3 at 2. The order to
6 show cause was returned as undeliverable on September 26, 2024, with a stamp stating that Mr.
7 Booker was no longer an inmate at the Lewis County Jail. Dkt. No. 4 at 1. Mr. Booker did not
8 provide an updated address in the 60 days that followed. On November 27, 2024, Judge Christel
9 issued an R&R recommending dismissal of Mr. Booker's action for failure to comply with a court
10 order and for failure to properly prosecute. Dkt. No. 5 at 2. The R&R was also returned as
11 undeliverable, Dkt. No. 6 at 1, and Mr. Booker did not file any objections to the R&R.

12 Because it does not appear that Lewis County Jail forwarded any mail to Mr. Booker at
13 any new address, *see* Dkt. Nos. 4, 6, the Court is concerned that Mr. Booker did not receive Judge
14 Christel's September 19, 2024 order. It therefore declines to hold against Mr. Booker any failure
15 to comply with that order. However, it is nonetheless Mr. Booker's responsibility to "keep the
16 court . . . advised as to his . . . current mailing address," and if he fails to do so within 60 days of
17 mail being returned as undeliverable, "the court may dismiss the action without prejudice for
18 failure to prosecute." LCR 41(b)(2). Here, as Judge Christel observes, more than 60 days have
19 passed since the September 24, 2024 order was returned as undeliverable, and Mr. Booker has not
20 provided the Court with any updated mailing address. Dkt. No. 5 at 2. The Court therefore adopts
21 Judge Christel's R&R with respect to his recommendation to dismiss for failure to prosecute.

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1 For the foregoing reasons, the Court ADOPTS IN PART the R&R, Dkt. No. 5, and
2 DISMISSES this case without prejudice for failure to prosecute. LCR 41(b)(2).

3 The Clerk is directed to close this case.

4 Dated this 18th day of December, 2024.

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6 Lauren King
7 United States District Judge
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